

1 A Because she, once again, was the
2 one that was working directly with David on
3 the filing.

4 Q Okay. And why originally did you
5 want to correct it?

6 A Because there was a verbal
7 agreement to issue to the two, and I didn't
8 want to have any -- I wanted full disclosure.
9 I wanted to make sure that it was done
10 properly.

11 Q Okay. And the reason you
12 acquiesced in Mr. Kaufman's advice -- with Mr.
13 Kaufman's advice?

14 A Why?

15 Q Yes. It might be the obvious
16 reason.

17 A Relying upon his legal advice to
18 do it right.

19 Q I thought you might say that. Is
20 it fair to say -- and I may have asked you
21 this already. Is it fair to say that your
22 statements about the personnel and the

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1 operations for PCSI apply with the same force
2 to PAI? In other words, the way the company
3 is run, employees, so forth and so on?

4 I think you indicated previously
5 that there really was no separation between
6 the two.

7 A Well, one's a subsidiary of the
8 parent and everything's operated from the
9 parent level, so --

10 Q So, in other words, what PAI was
11 operating at all, it was through PCSI?

12 A Yes.

13 Q And if I ask you what were the
14 daily operations of PAI, you're just going to
15 give me a recitation of what you've already
16 given me for PCSI; is that fair?

17 A Yes, that's correct.

18 Q Now, you've mentioned a couple of
19 times the waiver of the construction deadlines
20 for petition that was filed with the FCC in
21 relation to the rebanding.

22 A Yes.

1 Q Okay. What can you tell us about
2 the filing from PAI's perspective?

3 A Can you be more specific?

4 Q What were the circumstances and
5 why you filed it? And again, you may feel
6 it's a stupid question, but its for the
7 record, and there may be people less informed,
8 if possible, than me, reading it.

9 A We filed the waiver request to
10 take advantage of the relief that they were
11 giving under the 800 MHz rebanding order to
12 get -- get it waived. Not just us, but
13 everybody else that had not, did -- you know,
14 did so.

15 Q And what did you expect to achieve
16 by filing?

17 A I expected to achieve additional
18 time to construct after we got our new
19 frequency assignment which, from a business
20 standpoint, makes a lot of sense.

21 Q Can you tell us why?

22 A Cost.

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1 Q And what would be the cost
2 involved if you were not to have waited, for
3 instance, if you weren't to file the petition?

4 A You know, cost of -- you know, as
5 opposed to putting up the money, delay -- you
6 know, you extended out the timeline and not
7 putting up the cash today, versus in the
8 future.

9 Q But would there have been a
10 significant difference in what the build-out
11 would have been had you simply continued
12 onward to build out the licenses, as opposed
13 to filing a petition? If that makes sense.

14 A I'm sorry. Say it --

15 Q Well, are you -- is what you're
16 saying that it was, in effect, an economic
17 decision so that you could have additional
18 time to do the build-out, or was it a question
19 of, you know, redundancy or lost, you know,
20 actually lost money?

21 A Well, it allowed us to utilize the
22 cash in other areas and take that expenditure

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1 and push it back in time.

2 Q Had, at the -- I asked you this in
3 a different way, but since you had gotten the
4 licenses in 2000, do you remember when the
5 filing for the petition was made, the petition
6 for waiver?

7 A Yes.

8 Q And when was that made?

9 A In December of --

10 Q Was it 2005?

11 A 2005.

12 Q Okay. And had there been any
13 progress towards build-out since the time you
14 got the license in 2000 and the -- and the
15 filing of the petition in 2005?

16 Anything that would -- anything
17 that build-out would entail.

18 A I'm still --

19 Q Okay. Had anything been done to
20 construct the build-out of the licenses?

21 A Oh, yes. Yes.

22 Q From 2000 until 2005, did anything

1 occur in that period of time?

2 A Oh, no. Are you talking prior to
3 2005?

4 Q Right. Prior to 2005.

5 A No. No.

6 Q Okay. And what was the reason for
7 that? And you can be brief --

8 A Right.

9 Q -- I think it's -- you told us
10 before.

11 A Money.

12 Q Oh, money. All right.

13 A And the -- because of the
14 uncertainty of the -- created by the rebanding
15 proceeding.

16 Q But was the uncertainty mostly
17 having to do with money?

18 A Yes. Yes. It would --

19 Q Okay. And would that be in the
20 way that it impacted funding?

21 A Yes.

22 Q Now, when you -- we initially

1 talked about rebanding, we said a white paper
2 went out on 2001. I asked you did that cause
3 a cessation of operations in the site licenses
4 in 2002 in Puerto Rico, and you said yes.

5 And then, is it fair to say that
6 that -- was that also applicable to the
7 mainland licenses, the ones that you got at
8 the same time? If I'm not being clear, tell
9 me. I'm talking about the site licenses.

10 A We didn't have any site licenses
11 stateside.

12 Q You didn't have any site licenses
13 stateside in 2002?

14 A Ever.

15 Q Ever? Okay. Okay. My
16 misinformation.

17 Now, was there a specific showing
18 or a proffer required for the waiver? Let me
19 back up for a second. Strike that.

20 Who filed the waiver, the waiver
21 in 2005, petition for waiver?

22 A Either myself or Patton Boggs, I

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1 mean, did the actual submission, signed it.

2 I don't know if it was --

3 Q Was it --

4 A It was probably -- probably signed
5 by me. I don't know who submitted it. It may
6 have been submitted, you know, just based on
7 I know how you've asked questions in the past,
8 the person that pushed the button would have
9 been me instructing my attorney to do it or
10 myself.

11 Q Okay. So, in 2005, and this is
12 when you indicated that there was more funds
13 available, I think you had more employees and
14 everything else, and that's why you had a law
15 firm do it as opposed to just doing it
16 yourself?

17 What you had told me is that
18 initially David Kaufman did some filings for
19 you. There was a period of time when money
20 ran low and you had --

21 A In 2005 we -- we were able to
22 raise money and -- and -- yes, that -- yes, I

1 guess is the answer.

2 Q Okay. And did you -- who was
3 responsible for putting together the petition?
4 As I understand it, there are certain
5 requirements that the petition has, is that
6 correct?

7 A Yes.

8 Q Okay. Can you tell us what those
9 are, if you recall. I know it was a while
10 ago.

11 A I'd be taking a stab at it. I
12 haven't looked at it in a while.

13 Q Do you need to look at something
14 to refresh your memory? And I understand it
15 may not be something that you have with you.

16 A Yes. Yes, if you want to --

17 Q All right. Well, I can actually
18 -- I'll move -- we can come back to that.
19 I'll move on from that for now.

20 A Okay.

21 Q Were you required -- was there --
22 do you remember whether a part of the

1 submission with the waiver request had to do
2 with the showing of readiness?

3 A Yes.

4 Q Okay. In this case what was it
5 that -- well, let me ask you this way: Did
6 PCSI or PAI make that showing, to the best of
7 your recollection?

8 A Yes. We -- it was going to be
9 tight but, yes, we were -- we were --
10 equipment, sites, and engineering was -- was
11 in, you know -- we had equipment, we had
12 sites. I know that there was an issue in
13 reference to the American Tower sites.

14 Q Do you remember what that was,
15 what the issue was?

16 A Well, the issue that you guys had
17 or had brought up in the inconsistencies or my
18 lack of candor with the Commission in one of
19 the LOIs, I believe, or maybe it was in the -
20 - no, actually it was in the designation
21 order.

22 Q Okay.

1 A Had to do with the American Tower
2 sites, and that I wasn't truthful in --
3 because the actual individual site leases
4 signed by the engineers at the location, or
5 however they did that, didn't -- we didn't get
6 the signatures back until 2006.

7 At the time of the filing we had
8 correspondence from American Tower saying that
9 the applications would be back -- or not the
10 application, the site leases would be signed
11 and back within two weeks.

12 We had subsequently received
13 information from them that it was equivalent
14 to a master lease agreement, and the approval
15 on our sites, and I know the issue that you
16 had was, well, it wasn't signed in 2006, and
17 I should have updated, and I feel that what we
18 submitted was correct, and I stand by that.

19 Q Okay. And was there any other
20 information that, to your knowledge, should
21 have been or is alleged to have not been
22 updated?

1 A No, because if we would have been
2 allowed to place equipment on those sites --
3 what they were doing, it was changing their --
4 during that period, they changed their whole
5 application process, so they had sent over a
6 letter.

7 Q The tower company?

8 A The tower company. American
9 Tower.

10 So they sent us over a letter
11 explaining their -- their -- the change in
12 their policy, and confirmed their commitment
13 and our ability to use those sites. So I
14 stand by that filing.

15 Q Were you the one who signed on the
16 lease agreements --

17 A Yes.

18 Q -- from the tower companies?

19 A Yes.

20 Q All of them, to the best of your
21 recollection?

22 A Yes.

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1 Q Did any of those leases at any
2 point go into default, to your knowledge?

3 A Yes.

4 Q Can you tell us which ones? I
5 understand you might not remember exactly, but
6 --

7 A At this point right now?

8 Q Yes.

9 A We did not still have those --
10 those leases.

11 Q No, no. Oh, all right. Actually
12 what I asked, my specific question was about
13 default. Do you remember whether any of the
14 contracts went into default? Any that there
15 was -- they were terminated with money owed,
16 or terminated because money was owed?

17 A Yes.

18 Q Okay. Can you tell us how many of
19 those?

20 A I am not sure.

21 Q Did you ever update the FCC while
22 -- and of course I guess the petition is still

1 pending, is it not?

2 A Yes.

3 Q Did you ever update the Commission
4 in regard to those leases after they went into
5 default?

6 A No.

7 Q Is there a reason for that?

8 A No.

9 Q Okay. We're going to move along
10 just a bit. I may have to, unfortunately,
11 come back to this area, but are there any
12 other -- are you connected through PCSI or
13 otherwise with any other entities that own or
14 have attempted to acquire FCC licenses?

15 If that's too broad for you, I
16 guess I could narrow it down. Is there any
17 other companies that you're affiliated with
18 that have -- that either own or have attempted
19 to purchase FCC licenses?

20 A In what period in time?

21 Q Any time. Any time in the
22 existence of PCSI, from 1998 until the

1 present.

2 A No. No, in any that's not
3 associated with PCSI.

4 Q Did PCSI at some point, or does it
5 currently have a subsidiary called VentureTel?

6 A Yes.

7 Q Okay. So that would be -- that
8 would be an entity that you're associated
9 with, right?

10 A That's correct.

11 Q Okay. Now, can you give us a
12 little history of VentureTel?

13 A Yes. VentureTel was formed to
14 participate in the recent auction, and we bid
15 on licenses throughout the United States
16 looking to acquire additional spectrum in
17 Puerto Rico.

18 Q Well, if you're trying to -- you
19 said that they bid on licenses throughout the
20 United States, but your objective was to get
21 licenses in Puerto Rico?

22 A No. What I'm saying, primarily

1 bid in Puerto Rico. Bid in a few places in
2 the United States.

3 Q All right. And did they actually
4 participate in an auction, VentureTel?

5 A Yes.

6 Q And what was the outcome of their
7 participation?

8 A We were winning bidder, and we
9 failed to make the payment and defaulted.

10 Q Okay. And who was responsible for
11 the birth of VentureTel? In other words,
12 whose baby is VentureTel?

13 A That's a funny question. Do you
14 want to be more specific?

15 Q Who got the idea for VentureTel
16 and who got the idea to participate in this
17 last auction? That was 73; is that what it
18 was?

19 A Yes.

20 Q Okay.

21 A That was -- I'm vague about this.
22 Smartcom, which is a company that Pen owns

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1 with Carol Downs where he -- that he had
2 formed to do investor relations and marketing
3 for Preferred.

4 He said that they had a lot of
5 folks that were interested in participating in
6 the auction and based on the fact that we
7 wanted to enhance our spectrum position in
8 Puerto Rico, I decided to participate in the
9 auction, but the -- that was -- it was an idea
10 that Pen convinced me was a good idea to do.

11 Q Okay. What caused the default
12 that VentureTel went through in its auction
13 dealings, in this auction? All right. Let me
14 ask you first, what kind of licenses are we
15 talking about for 73?

16 A 700.

17 Q 700. That's right. Okay. And
18 would -- these would have fit with what the
19 general plan was for Puerto Rico?

20 A Yes.

21 Q Okay. And so what was responsible
22 for the default in the auction proceedings

1 that VentureTel experienced?

2 A We had investors that backed down
3 because of the administrative hearing and our
4 linkage to Pendleton Waugh. They just
5 couldn't get comfortable.

6 Q And are there some specific
7 investors? I mean, I assume there are some
8 specific investors.

9 A Yes. Specific investors.

10 Q Can you tell us who they are?

11 A A gentleman, one of the directors
12 of VentureTel, an individual named Richard
13 Stanczyk, they were clients of his that he was
14 working with, and I don't -- I do not have
15 their names, but I can provide those to you
16 through him.

17 Q Okay. Is Richard Stanczyk an
18 attorney? What's his --

19 A No.

20 Q What does he do?

21 A Richard Stanczyk is an
22 international and domestic tax consultant and

1 fraud investigator.

2 Q Who does he investigate fraud for?

3 A He used to -- he used to work for
4 the IRS and he still works closely with
5 federal agencies in assisting in cases.

6 Q Is he -- where is he located, do
7 you know?

8 A He's located -- yes. He's located
9 in San Marcos, California.

10 Q And was there something that
11 caused him to -- I mean, he had participated
12 up to a point, correct? Up to the point -- I
13 mean, up to the point of filing and winning
14 licenses, right?

15 Was there something that caused
16 him -- some precipitous event that caused him
17 to rethink his involvement?

18 A It wasn't -- like I say, it wasn't
19 his money. It was his client's that backed
20 out, and we -- we didn't make the payment.

21 Q So all of the money that
22 VentureTel was using or you were using that

1 was being used for VentureTel was money that
2 came from outside PCSI, or is that not a fair
3 statement?

4 A Well, PCSI doesn't have any
5 operating revenue so the -- and it was
6 investor dollars from folks that are investors
7 in Preferred and others.

8 Q All right. So, in other words,
9 these were people --

10 A We were obtaining money from
11 several different sources, and the decision to
12 continue bidding at that price was based on
13 Richard's ability with his clients, and the
14 belief that we would be able to make the
15 payment, and to everybody's, you know, great
16 disappointment, the -- backed out because of
17 Pendleton Waugh and his involvement with the
18 company.

19 Q But I mean, was -- I mean,
20 Pendleton Waugh's involvement has been known
21 for quite some time. What happened to change
22 them?

1 A It was an issue for this -- these
2 particular investors that we were relying upon
3 to help us with that payment. Other folks,
4 when we raised quite a bit of money for the
5 auction from our investors who know about Pen,
6 and it wasn't a problem for them.

7 Q But these were investors
8 specifically of Mr. Stanczyk's?

9 A Yes.

10 Q Okay. And were they not aware
11 previously of Pen's involvement? What's your
12 understanding?

13 A Oh, my understanding is that --
14 that they grew very uncomfortable in reading
15 and going over the designation order, and they
16 backed out.

17 Q Okay. So, it was directly related
18 to the hearing designation order in this case?

19 A Yes. And --

20 Q Go ahead.

21 A And, you know, the linkage to
22 Pen's prior past.

1 Q And is it fair to say that Mr.
2 Stanczyk, himself, was not disturbed by
3 Pendleton Waugh's involvement with his
4 investors?

5 A Well, he -- you know, he doesn't
6 like Pen and doesn't want Pen involved with
7 the company, and he was satisfied with my
8 commitment to sever my ties with Pen, and so
9 he was comfortable knowing that, moving
10 forward that the company's not going to be
11 associated with Pendleton Waugh.

12 Q And so that's something that you
13 told him, your commitment to sever ties --

14 A Yes.

15 Q -- you told him in 2007? Which
16 is, I think, when the auction --

17 A Yes. You know, when we got into
18 it, I mean, yes.

19 Q And had you, at the point where
20 you filed for VentureTel, had you formally
21 severed relations with Pendleton Waugh?

22 A We were in the process of -- from

1 a consulting standpoint, we had severed that
2 tie in 2007.

3 Smartcom was still performing
4 certain services for us that we were going to
5 phase out as we can -- as we can replace that,
6 so we were in the process of phasing out, that
7 he was comfortable with.

8 Q Okay. And in phasing that out,
9 phasing him out, or phasing Smartcom out and
10 severing ties with Pendleton Waugh, how were
11 you to compensate him for the loss of his
12 stock warrants?

13 You indicated previously --

14 A Well, what I am saying is that we
15 weren't going to be utilizing him. His
16 concern was Pen's involvement with the
17 company, not whether or not he -- he owned
18 shares in the company that's voted by somebody
19 else.

20 Q No, I understand that. I didn't
21 mean to relate the two. What I was talking
22 about now is you indicated you made the

1 determination, I mean, you indicated now and
2 previously that you made the determination to
3 sever relations with Pendleton Waugh in 2007.

4 And -- but you've also indicated
5 that when you filed your auction application
6 for Auction 34, you intended to set up this
7 trust to -- the eventual amount to be
8 transferred to Pendleton Waugh was 800,000
9 shares, and presumably those shares had some
10 value.

11 So, in severing your relationship
12 with him, did you not have to account for that
13 value that he was -- was to have received if
14 everything went as planned?

15 A Well, when I talk about severing
16 ties, I'm not addressing at all his stock
17 issue. I'm talking about his employment --
18 not employment, his consulting or, you know,
19 doing any type of work on behalf of Preferred
20 in terms of, you know, severing -- severing
21 all ties.

22 Q Okay.

1 A He has no -- no tie -- wouldn't be
2 a consultant, wouldn't be able to be attached
3 to the company, other than if it ever worked
4 out when it came to his stock, a promise from
5 me from years ago, that hurdle, obviously, is
6 going to get resolved through the
7 administrative hearing unless we want to,
8 what, file a transfer of control application
9 and have the Commission say no.

10 Ultimately, at the end of the day,
11 the Commission decides whether or not Pen is
12 going to be able to own any stock in the
13 company.

14 Q Okay.

15 A Or the company can take the stance
16 that, you know, his ownership is detrimental
17 to the company and, you know, draw battle
18 lines with him and go to court and so --

19 Q So, is it fair to say that this
20 question of his stock is still an open
21 question that hasn't been resolved?

22 A Well, you know, the -- I stand

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